IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 160 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

THE TATA IRON AND STEEL CO.

Versus

MARIGOLD METALS PVT. LTD.

Appearance:

1. COMPANY PETITION No. 160 of 1999

MR PC KAVINA for Petitioner No. 1

MR AS VAKIL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 12/01/2005

ORAL JUDGEMENT

The petitioner has filed this petition under Section 433 (1)(e) read with Section 434 of the Companies Act, 1956 for winding up of the respondent company. The

petitioner was entitled to recover a sum of Rs.2,36,570.38ps. The respondent company has issued cheque which was bounced. The petitioner has, therefore, issued notice under Section 138 of the Negotiable Instrument Act. The petitioner thereafter issued the statutory notice under Section 433 of the Act which was duly received by the respondent company and yet no payment was made by the respondent company. It is the case of the petitioner that the respondent company has lost its financial substratum and is not in a position to discharge its liabilities.

2. The petition was admitted by this Court on 24.04.2001 and order of advertisement was also passed on the same day. While admitting the petition, the Court has directed that the advertisement be published in two daily newspapers, namely, 'Indian Express' and 'Jansatta' both of Ahmedabad edition. Publication of advertisement in the Official Gazette was dispensed with.

3. Though the order of advertisement was passed on 24.04.2001, no advertisement was given by the petitioner. The petitioner thereafter moved Company Application No. 54 of 2003 praying for fixing of the final hearing date for hearing the company petition and for seeking direction for publication of advertisement in one Gujarati daily and English daily and in the Official Gazette. This Court has passed an order on 10.04.2003 whereby the said application was allowed and the date of final hearing was fixed on 30.07.2003. Advertisement of order of admission and fixation of new date of final hearing was ordered to be published in two daily newspapers, namely, 'Indian Express' and 'Jansatta' both of Ahmedabad edition and also in the Official Gazette.

4. Despite the aforesaid order passed by this Court on 10.04.2003, the petitioner has not given any advertisement till this date. It, therefore, appears to the Court that the petitioner is not interested in prosecuting this company petition. The petition is, therefore, dismissed for want of prosecution. Notice discharged without any order as to costs.

Sd/-

[K.A. PUJ, J.]

#Savariya#

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